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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,721	08/24/2001	Percy LeBaron Spencer II	62601-011	2767

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EXAMINER

REFAI, RAMSEY

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/938,721

Applicant(s)

SPENCER ET AL.

Examiner

Ramsey Refai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

Responsive to Amendment filed on May 23, 2005. Claims 1 and 2 have been amended.

Claims 1 and 2 remain pending examination.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Joy et al (U.S. Patent No. 6,728,263).

3. As per claim 1, Joy et al teach a method for transmitting multimedia content comprising audio data and video data between a server computer and a client computer over a network the method comprising the steps of:

measuring a maximum bandwidth value on a connection between the client computer and a the server computer (**column 7, lines 17-26, column 6, lines 5-25**);

separating the multimedia content into audio media blocks and video media blocks (**column 1, lines 10-23, column 5, lines 18-38**);

determining the optimal packet size and optimal packet interval for packets containing audio media blocks and video media blocks for the transmission of the multimedia data over the network (**column 7, lines 17-38, column 5, lines 18-57**);

transmitting the multimedia content from the server computer to the client computer using the optimal packet size and optimal packet interval (**column 7, lines 27-40**);

tracking a latency value for the transmitting of the multimedia data content from the server to the client (**column 6, lines 24-60, column 7, lines 27-39**); and

adjusting the maximum bandwidth value based on the latency value by first transmitting only audio media blocks if the maximum bandwidth value is less than the latency value, and then transmitting a number of video media blocks if the adjusted maximum bandwidth level is eater than the latent value when only audio media blocks are transmitted (**column 6, lines 37-59**).

4. As per claim 2, Joy et al teach a system for sending and receiving multimedia transmissions between two or more clients wherein each client generates and receives audio and video data, the system comprising:

a server for receiving the audio and video data from a connection to the first client and transmitting the audio and video data over a connection to the second client (**column 1, lines 10-23, abstract, column 4, lines 44-66**), wherein the server dynamically determines a bandwidth at which the second client can receive the audio and video data and transmits the audio and video data to the second client at or below the determined bandwidth, and wherein the server includes a bandwidth regulator that transmits only the audio data to the second client if the audio and video data exceeds the determined bandwidth (**column 6, lines 37-59**).

*Response to Arguments*

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Lee et al (U.S. Patent No. 6,856,997)
- b. Liu (U.S. Patent No. 6,665,002)
- c. Lisitsa et al (U.S. Patent No. 6,766,407)
- d. Ebata et al (U.S. Patent No. 6,292,098)
- e. Kerr (U.S. Patent No. 5,884,600).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramsey Refai  
Examiner  
Art Unit 2152

RR  
August 3, 2005

  
JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100